

222 DELAWARE AVENUE, SUITE 900
P.O. BOX 25130
WILMINGTON, DE 19899
ZIP CODE FOR DELIVERIES: 19801

THE BAYARD FIRM
ATTORNEYS

 MERITAS LAW FIRMS WORLDWIDE
www.bayardfirm.com
302-655-5000
(FAX) 302-658-6395
WRITER'S DIRECT ACCESS

FILED ELECTRONICALLY

(302) 429-4226
tkovach@bayardfirm.com

October 17, 2005

Honorable Gregory M. Sleet
United States District Court for the District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street, Lockbox 18
Wilmington, DE 19801

Re: *Enzon Pharmaceuticals, Inc. v. PhoenixPharmacologics, Inc.*
C.A. No. 04-1285-GMS

Dear Judge Sleet:

Phoenix submits this reply in support of its request for leave to file a motion for summary judgment of no unjust enrichment.

Enzon has failed to identify any factual issue that would preclude granting summary judgment of no unjust enrichment. Although Enzon suggests that a longer statute of limitations is applicable, Enzon's unjust enrichment claim would still be time-barred, even if the Court were to adopt the longer statute of limitations that Enzon proposes.

The key fact relating to Phoenix's proposed motion is Enzon's admission that its claim of unjust enrichment derives from the use by Dr. Clark of his "work on PEG-ADI while at Enzon" (Enzon Opposition Letter Brief at 3). It is undisputed that Enzon has been aware since at least 1996 – more than eight years before it initiated this lawsuit -- that Dr. Clark used this "work" in the research that he conducted upon leaving the company. Since the longest statute of limitations that Enzon proposes is six years (id. at 3), Enzon's unjust enrichment claim is – by its own admission -- barred by the statute of limitations.

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Phoenix accordingly requests that the Court grant it leave to file a motion for summary judgment that Enzon's unjust enrichment claim is barred by the statute of limitations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas H. Kovach", written in a cursive style.

Thomas H. Kovach (#3964)

THK/slh

cc: Courtesy copy to Clerk by hand
Counsel as shown on attached certificate
31058-1

CERTIFICATE OF SERVICE

The undersigned counsel certifies that, on October 17, 2005, he electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send automatic notification of the filing to the following:

Josy W. Ingersoll, Esquire
John W. Shaw, Esquire
Young Conaway Stargatt & Taylor, LLP
1000 West Street, 17th Floor
Wilmington, DE 19801

The undersigned counsel further certifies that copies of the foregoing document were sent by email and hand to the above local counsel and by email and U.S. mail to the following non-registered participants:

Charles A. Weiss, Esquire
Michael A. Siem, Esquire
Kenyon & Kenyon
One Broadway
New York, NY 10004

/s/ Thomas H. Kovach (tk3964)